

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

LUCIA TARIN, JIVANNA PALACIOS,  
OMAYRA BENAVIDEZ, RAY ROMERO,  
CINDY LORANG, SILVIA CABRERA,  
ALBERTO FLORES, RAY MALDONADO,  
ISALA MALDONADO, and EDDIE SIMPSON,

Plaintiffs,

v.

12cv145 CG/LAM

RWI CONSTRUCTION, INC., DAVID  
FREDERICK, LYNDAL TROUT, RICHARD  
ALTMAN, LEE ROWE, RON TODD, JERRY  
CAVITT, and MATTHEW LEHMAN,

Defendants.

**ORDER GRANTING MOTION TO AMEND**

**THIS MATTER** comes before the Court on *Plaintiffs' Motion to File Second Amended Complaint*. (Doc. 5). Plaintiffs seek to amend the complaint and add claims under Title VII and the New Mexico Human Rights Act. (*Id.* at 2). These claims were not included in the original complaint or first amended complaint because Plaintiff had not yet received an Notice of Right to Sue from the Equal Employment Opportunity Commission. (*Id.*). No Defendant has stated opposition to the motion.

Pursuant to Rule 15(a)(2) of the FEDERAL RULES OF CIVIL PROCEDURE, Courts are instructed to “freely give leave [to amend] when justice so requires.” FED. R. CIV. P. 15(a)(2). Generally, a motion to amend will be denied only on “a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of the amendment.” *Duncan v.*

*Manager, Dep't of Safety, City & County of Denver*, 397 F.3d 1300, 1315 (10th Cir. 2005). Plaintiffs' motion does not reflect bad faith or any dilatory motive on their part. Defendants will not be prejudiced by the proposed amendment since no answers have been file and discovery has not yet commenced.

**IT IS THEREFORE ORDERED** that *Plaintiffs' Motion to File Second Amended Complaint*, (Doc. 5), be **GRANTED**. Exhibit A, attached to Plaintiffs' motion, shall be the operative complaint in this action.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
UNITED STATES MAGISTRATE JUDGE